

1 **MESSAGE THERAPY PRACTICE ACT AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Candice B. Pierucci

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Massage Therapy Practice Act.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ creates and amends definitions;
- 13 ▶ creates a license classification for a massage assistant and a massage assistant
- 14 in-training;
- 15 ▶ establishes the qualifications and scope of practice for a massage assistant and a
- 16 massage assistant in-training;
- 17 ▶ amends massage therapist examination and background check requirements;
- 18 ▶ addresses supervision of a massage apprentice, massage assistant, and massage
- 19 assistant in-training;
- 20 ▶ requires certain signage and disclosures when a massage assistant or massage
- 21 assistant in-training provides a massage service;
- 22 ▶ clarifies consent requirements for certain massage services; and
- 23 ▶ makes technical and conforming changes.

24 **Money Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **58-1-301.5**, as last amended by Laws of Utah 2022, Chapters 221, 438, and 466

31 **58-47b-102**, as last amended by Laws of Utah 2012, Chapter 34

32 **58-47b-301**, as last amended by Laws of Utah 2013, Chapter 278

33 **58-47b-302**, as last amended by Laws of Utah 2020, Chapter 339

34 **58-47b-303**, as enacted by Laws of Utah 1996, Chapter 76

35 **58-47b-304**, as last amended by Laws of Utah 2021, Chapter 403

36 **58-47b-305**, as last amended by Laws of Utah 1998, Chapter 159

37 **58-47b-501**, as last amended by Laws of Utah 2018, Chapter 318

38 **58-47b-502**, as last amended by Laws of Utah 1998, Chapter 159

39 ENACTS:

40 **58-47b-302.1**, Utah Code Annotated 1953

41 **58-47b-306**, Utah Code Annotated 1953

42

43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **58-1-301.5** is amended to read:

45 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

46 (1) The division shall have direct access to local files maintained by the Bureau of
47 Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification,
48 for background screening of individuals who are applying for licensure, licensure renewal,
49 licensure reinstatement, or relicensure, as required in:

50 (a) Section **58-17b-307**;

51 (b) Sections **58-24b-302** and **58-24b-302.1**;

52 (c) Section **58-31b-302**;

53 (d) Sections **58-42a-302** and **58-42a-302.1**, of Chapter 42a, Occupational Therapy
54 Practice Act;

55 (e) Section **58-44a-302.1**;

- 56 (f) [Section] Sections 58-47b-302 and 58-47b-302.1;
- 57 (g) Section 58-55-302, as Section 58-55-302 applies to alarm companies and alarm
- 58 company agents;
- 59 (h) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental
- 60 Health Professional Practice Act;
- 61 (i) Sections 58-61-304 and 58-61-304.1;
- 62 (j) Section 58-63-302;
- 63 (k) Section 58-64-302;
- 64 (l) Sections 58-67-302 and 58-67-302.1; and
- 65 (m) Sections 58-68-302 and 58-68-302.1.
- 66 (2) The division's access to criminal background information under this section:
- 67 (a) shall meet the requirements of Section 53-10-108; and
- 68 (b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere
- 69 held in abeyance, dismissed charges, and charges without a known disposition.
- 70 (3) The division may not disseminate outside of the division any criminal history
- 71 record information that the division obtains from the Bureau of Criminal Identification or the
- 72 Federal Bureau of Investigation under the criminal background check requirements of this
- 73 section.
- 74 Section 2. Section 58-47b-102 is amended to read:
- 75 **58-47b-102. Definitions.**
- 76 In addition to the definitions in Section 58-1-102, as used in this chapter:
- 77 (1) "Board" means the Board of Massage Therapy created in Section 58-47b-201.
- 78 (2) "Breast" means the female mammary gland and does not include the muscles,
- 79 connective tissue, or other soft tissue of the upper chest.
- 80 (3) "Homeostasis" means maintaining, stabilizing, or returning to equilibrium the
- 81 muscular system.
- 82 (4) "Massage apprentice" means an individual licensed under this chapter as a massage

83 apprentice ~~[to work under the direct supervision of a licensed massage therapist]~~.

84 (5) "Massage assistant" means an individual licensed under this chapter as a massage
85 assistant.

86 (6) "Massage assistant in-training" means an individual licensed under this chapter as a
87 massage assistant in-training.

88 ~~[(5)]~~ (7) "Massage therapist" means an individual licensed under this chapter as a
89 massage therapist.

90 (8) "Massage therapy supervisor" means:

91 (a) a massage therapist who has at least three years of experience as a massage
92 therapist and has engaged in the lawful practice of massage therapy for at least 3,000 hours;

93 (b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

94 (c) a physician licensed under Chapter 67, Utah Medical Practice Act;

95 (d) an osteopathic physician licensed under Chapter 68, Utah Osteopathic Medical
96 Practice Act;

97 (e) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act; or

98 (f) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
99 Act.

100 (9) (a) "Practice of limited massage therapy" means:

101 (i) the systematic manual manipulation of the soft tissue of the body for the purpose of
102 promoting the therapeutic health and well-being of a client, enhancing the circulation of the
103 blood and lymph, relaxing and lengthening muscles, relieving pain, restoring metabolic
104 balance, relaxation, or achieving homeostasis;

105 (ii) seated chair massage;

106 (iii) the use of body wraps;

107 (iv) aromatherapy;

108 (v) reflexology; or

109 (vi) in connection with an activity described in this Subsection (9), the use of:

- 110 (A) the hands;
- 111 (B) a towel;
- 112 (C) a stone;
- 113 (D) a shell;
- 114 (E) a bamboo stick; or
- 115 (F) an herbal ball compress.
- 116 (b) "Practice of limited massage therapy" does not include work on an acute or
- 117 subacute injury.
- 118 ~~[(6)]~~ (10) "Practice of massage therapy" means:
- 119 (a) the examination, assessment, and evaluation of the soft tissue structures of the body
- 120 for the purpose of devising a treatment plan to promote homeostasis;
- 121 (b) the systematic manual or mechanical manipulation of the soft tissue of the body for
- 122 ~~[the purpose of: (i)]~~ the purpose of promoting the therapeutic health and well-being of a client[;
- 123 ~~(ii)]~~₂ enhancing the circulation of the blood and lymph[;~~(iii)]~~₂ relaxing and lengthening
- 124 muscles[;~~(iv)]~~₂ relieving pain[;~~(v)]~~₂ restoring metabolic balance[;~~(vi)]~~₂ or achieving
- 125 homeostasis[;~~or]~~₂ or for any other purpose;
- 126 ~~[(vii) other purposes;]~~
- 127 (c) the use of the hands or a mechanical or electrical apparatus in connection with this
- 128 Subsection ~~[(6)]~~ (10);
- 129 (d) the use of rehabilitative procedures involving the soft tissue of the body;
- 130 (e) range of motion or movements without spinal adjustment as set forth in Section
- 131 [58-73-102](#);
- 132 (f) ~~[(8)]~~ the use of oil rubs, heat lamps, salt glows, hot and cold packs, or tub, shower,
- 133 steam, and cabinet baths;
- 134 (g) manual traction and stretching exercise;
- 135 (h) correction of muscular distortion by treatment of the soft tissues of the body;
- 136 (i) counseling, education, and other advisory services to reduce the incidence and

137 severity of physical disability, movement dysfunction, and pain;

138 (j) [~~similar or related~~] activities and modality techniques similar or related to the
139 activities and techniques described in this Subsection (10);

140 (k) [~~the~~] a practice described in this Subsection [~~(6)~~] (10) on an animal to the extent
141 permitted by:

142 (i) Subsection 58-28-307(12);

143 (ii) the provisions of this chapter; and

144 (iii) division rule made in accordance with Title 63G, Chapter 3, Utah Administrative
145 Rulemaking Act; or

146 (l) providing, offering, or advertising a paid service using the term massage or a
147 derivative of the word massage, regardless of whether the service includes physical contact.

148 [~~(7)~~] (11) "Soft tissue" means the muscles and related connective tissue.

149 [~~(8)~~] (12) "Unlawful conduct" [~~is as~~] means the same as that term is defined in Sections
150 58-1-501 and 58-47b-501.

151 [~~(9)~~] (13) "Unprofessional conduct" [~~is as~~] means the same as that term is defined in
152 Sections 58-1-501 and 58-47b-502 and as may be further defined by division rule made in
153 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

154 Section 3. Section 58-47b-301 is amended to read:

155 **58-47b-301. Licensure required.**

156 (1) An individual shall hold a license issued under this chapter in order to engage in the
157 practice of massage therapy or the practice of limited massage therapy, except as specifically
158 provided in Section 58-1-307 or 58-47b-304.

159 (2) An individual shall have a license in order to:

160 (a) represent [~~himself~~] oneself as a massage therapist [~~or~~], massage apprentice,
161 massage assistant, or massage assistant in-training;

162 (b) represent [~~himself~~] oneself as providing a service that is within the practice of
163 massage therapy or the practice of limited massage therapy or use the word massage or any

164 other word to describe ~~such~~ the services; or

165 (c) charge or receive a fee or any consideration for providing a service that is within the
166 practice of massage therapy or the practice of limited massage therapy.

167 Section 4. Section **58-47b-302** is amended to read:

168 **58-47b-302. License classifications -- Qualifications for licensure.**

169 (1) The division shall issue licenses under this chapter in the classifications of:

170 (a) massage therapist; ~~and~~

171 (b) massage apprentice~~[-]~~;

172 (c) massage assistant; and

173 (d) massage assistant in-training.

174 (2) ~~Each~~ An applicant for licensure as a massage therapist shall:

175 (a) submit an application in a form prescribed by the division;

176 (b) pay a fee determined by the department under Section [63J-1-504](#);

177 (c) be 18 years ~~of age~~ old or older;

178 (d) have either:

179 (i) (A) graduated from a school of massage having a curriculum ~~which~~ that meets
180 standards established by division rule made in collaboration with the board and in accordance
181 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

182 (B) completed equivalent education and training in compliance with division rule made
183 in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

184 (ii) completed a massage apprenticeship program consisting of a minimum of 1,000
185 hours of supervised training over a minimum of 12 months and in accordance with standards
186 established by ~~the~~ division ~~by~~ rule made in collaboration with the board and in accordance
187 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

188 (e) pass ~~examinations~~;

189 (i) the Federation of State Massage Therapy Boards Massage and Bodywork Licensing
190 Examination; or

191 (ii) any other examination established by [rule by the division] division rule made in
192 collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative
193 Rulemaking Act.

194 (3) ~~[Each]~~ An applicant for licensure as a massage apprentice shall:

195 (a) submit an application in a form prescribed by the division;

196 (b) pay a fee determined by the department under Section [63J-1-504](#);

197 (c) be 18 years ~~[of age]~~ old or older;

198 (d) provide satisfactory evidence to the division that the ~~[individual]~~ applicant will
199 practice as a massage apprentice only under the direct supervision of a licensed massage
200 therapist in good standing ~~[and who has]~~ who, for at least 6,000 hours, has engaged in the
201 lawful practice of massage therapy as a licensed massage therapist [for not less than 6,000
202 hours]; and

203 (e) ~~[successfully complete]~~ pass an examination as required by division rule made in
204 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

205 (4) (a) An applicant for licensure as a massage assistant shall:

206 (i) submit an application in a form prescribed by the division;

207 (ii) pay a fee determined by the department in accordance with Section [63J-1-504](#);

208 (iii) be 18 years old or older;

209 (iv) subject to Subsection (4)(b), complete at least 300 hours of education and training
210 approved by division rule made accordance with Title 63G, Chapter 3, Utah Administrative
211 Rulemaking Act;

212 (v) provide satisfactory evidence to the division that the applicant will practice as a
213 massage assistant only under the indirect supervision of a massage therapy supervisor; and

214 (vi) pass an examination as required by division rule made in accordance with Title
215 63G, Chapter 3, Utah Administrative Rulemaking Act.

216 (b) The 300-hour education and training requirement described in Subsection (4)(a)
217 shall include:

218 (i) at least 150 hours of education and training while the applicant is:
219 (A) enrolled in massage school; or
220 (B) licensed as a massage assistant in-training and under the direct supervision of a
221 massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful
222 practice of massage therapy; and
223 (ii) at least 150 hours of education and training while the applicant is:
224 (A) enrolled in massage school; or
225 (B) licensed as a massage assistant in-training and under the indirect supervision of a
226 massage therapist in good standing who, for at least 6,000 hours, has engaged in the lawful
227 practice of massage therapy.
228 (5) An applicant for licensure as a massage assistant in-training shall:
229 (a) submit an application in a form prescribed by the division;
230 (b) pay a fee determined by the department in accordance with Section [63J-1-504](#);
231 (c) be 18 years old or older; and
232 (d) provide satisfactory evidence to the division that the applicant will practice as a
233 massage assistant in-training under the supervision of a massage therapist for a period of no
234 more than six months for the purpose of satisfying the requirements described in Subsections
235 (4)(a)(iv) and (4)(b) for licensure as a massage assistant.
236 (6) (a) A massage therapist may supervise at one time up to six individuals licensed as
237 a massage apprentice or massage assistant in-training.
238 (b) A massage therapy supervisor may supervise at one time up to six individuals
239 licensed as a massage assistant.
240 ~~[(4)(a) Any]~~ (7) A new massage therapist [or], massage apprentice, massage assistant,
241 or massage assistant in-training applicant shall submit [fingerprint cards in a form acceptable to
242 the division at the time the license application is filed and shall consent to a fingerprint
243 background check by the Utah Bureau of Criminal Identification and the Federal Bureau of
244 Investigation regarding the application.] to and pass a criminal background check in accordance

245 with Section 58-47b-302.1 and any requirements established by division rule made in
246 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

247 ~~[(b) The division shall request the Department of Public Safety to complete a Federal~~
248 ~~Bureau of Investigation criminal background check for each new massage therapist or~~
249 ~~apprentice applicant through the national criminal history system (NCIC) or any successor~~
250 ~~system.]~~

251 ~~[(c) The cost of the background check and the fingerprinting shall be borne by the~~
252 ~~applicant.]~~

253 ~~[(5) (a) Any new massage therapist or massage apprentice license issued under this~~
254 ~~section shall be conditional, pending completion of the criminal background check. If the~~
255 ~~criminal background check discloses the applicant has failed to accurately disclose a criminal~~
256 ~~history, the license shall be immediately and automatically revoked.]~~

257 ~~[(b) Any person whose conditional license has been revoked under Subsection (5) (a)~~
258 ~~shall be entitled to a post-revocation hearing to challenge the revocation. The hearing shall be~~
259 ~~conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.]~~

260 ~~[(6) An applicant who successfully completes a fingerprint background check under~~
261 ~~Subsection (4) may not be required by any other state or local government body to submit to a~~
262 ~~second fingerprint background check as a condition of lawfully practicing massage therapy in~~
263 ~~this state.]~~

264 Section 5. Section **58-47b-302.1** is enacted to read:

265 **58-47b-302.1. Criminal background check.**

266 (1) An applicant for licensure under this chapter who requires a criminal background
267 check shall:

268 (a) submit fingerprint cards in a form acceptable to the division at the time the license
269 application is filed; and

270 (b) consent to a fingerprint background check conducted by the Bureau of Criminal
271 Identification and the Federal Bureau of Investigation regarding the application.

272 (2) The division shall:
273 (a) in addition to other fees authorized by this chapter, collect from each applicant
274 submitting fingerprints in accordance with this section the fee that the Bureau of Criminal
275 Identification is authorized to collect for the services provided under Section 53-10-108 and the
276 fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of
277 obtaining federal criminal history record information;
278 (b) submit from each applicant the fingerprint card and the fees described in
279 Subsection (2)(a) to the Bureau of Criminal Identification; and
280 (c) obtain and retain in division records a signed waiver approved by the Bureau of
281 Criminal Identification in accordance with Section 53-10-108 for each applicant.
282 (3) The Bureau of Criminal Identification shall, in accordance with the requirements of
283 Section 53-10-108:
284 (a) check the fingerprints submitted under Subsection (2)(b) against the applicable state
285 and regional criminal records databases;
286 (b) forward the fingerprints to the Federal Bureau of Investigation for a national
287 criminal history background check; and
288 (c) provide the results from the state, regional, and nationwide criminal history
289 background checks to the division.
290 (4) For purposes of conducting a criminal background check required under this
291 section, the division shall have direct access to criminal background information maintained
292 under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.
293 (5) The division may not disseminate outside of the division any criminal history
294 record information that the division obtains from the Bureau of Criminal Identification or the
295 Federal Bureau of Investigation under the criminal background check requirements of this
296 section.
297 (6) (a) A new license issued under this chapter is conditional pending completion of
298 the criminal background check.

299 (b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the
300 criminal background check required in Subsection 58-47b-302(7) demonstrates the applicant
301 has failed to accurately disclose a criminal history, the license is immediately and automatically
302 revoked upon notice to the licensee by the division.

303 (c) A person whose conditional license is revoked under Subsection (6)(b) is entitled to
304 a postrevocation hearing to challenge the revocation.

305 (d) The division shall conduct a postrevocation hearing in accordance with Title 63G,
306 Chapter 4, Administrative Procedures Act.

307 (7) An applicant who successfully completes a background check under this section
308 may not be required by any other state or local government body to submit to a second
309 background check as a condition of lawfully engaging in the practice of massage therapy or the
310 practice of limited massage therapy in this state.

311 Section 6. Section **58-47b-303** is amended to read:

312 **58-47b-303. Term of license -- Expiration -- Renewal.**

313 (1) (a) [~~Each~~] Except as provided in Subsection (3), the division shall issue a license
314 [issued] under this chapter [~~shall be issued~~] in accordance with a two-year renewal cycle
315 established by [~~rule~~] division rule made in accordance with Title 63G, Chapter 3, Utah
316 Administrative Rulemaking Act.

317 (b) A renewal period may be extended or shortened by as much as one year to maintain
318 established renewal cycles or to change an established renewal cycle.

319 (2) [~~Each~~] Subject to Subsection (3), a license automatically expires on the expiration
320 date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

321 (3) A massage assistant in-training license expires six months after the day on which
322 the division issues the massage assistant in-training license.

323 Section 7. Section **58-47b-304** is amended to read:

324 **58-47b-304. Exemptions from licensure.**

325 (1) In addition to the exemptions from licensure in Section 58-1-307, the following

326 individuals may engage in the practice of massage therapy [~~as defined under this chapter,~~] or
 327 the practice of limited massage therapy, subject to the stated circumstances and limitations,
 328 without being licensed[~~, but may not represent themselves as a massage therapist or massage~~
 329 ~~apprentice:] under this chapter:~~

- 330 (a) a physician or surgeon licensed under Chapter 67, Utah Medical Practice Act;
- 331 (b) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;
- 332 (c) a nurse licensed under Chapter 31b, Nurse Practice Act, or under Chapter 44a,
 333 Nurse Midwife Practice Act;
- 334 (d) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;
- 335 (e) a physical therapist assistant licensed under Chapter 24b, Physical Therapy Practice
 336 Act, while under the general supervision of a physical therapist;
- 337 (f) an osteopathic physician or surgeon licensed under Chapter 68, Utah Osteopathic
 338 Medical Practice Act;
- 339 (g) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice
 340 Act;
- 341 (h) a hospital staff member employed by a hospital, who practices massage as part of
 342 the staff member's responsibilities;
- 343 (i) an athletic trainer licensed under Chapter 40a, Athletic Trainer Licensing Act;
- 344 (j) a student in training enrolled in a massage therapy school approved by the division;
- 345 (k) a naturopathic physician licensed under Chapter 71, Naturopathic Physician
 346 Practice Act;
- 347 (l) (i) an occupational therapist licensed under Chapter 42a, Occupational Therapy
 348 Practice Act; and
- 349 (ii) an occupational therapy assistant licensed under Chapter 42a, Occupational
 350 Therapy Practice Act, while under the general supervision of an occupational therapist;
- 351 (m) an individual performing gratuitous massage; and
- 352 (n) an individual:

353 (i) certified by or through, and in good standing with, an industry organization that is
354 recognized by the division and that represents a profession with established standards and
355 ethics:

356 (A) who is certified to practice reflexology and whose practice is limited to the scope
357 of practice of reflexology;

358 (B) who is certified to practice a type of zone therapy, including foot zone therapy, and
359 whose practice is limited to the scope of practice for which the individual is certified;

360 (C) who is certified to practice ortho-bionomy and whose practice is limited to the
361 scope of practice of ortho-bionomy;

362 (D) who is certified to practice bowerwork and whose practice is limited to the scope
363 of practice of bowerwork; or

364 (E) who is certified to practice a type of brain integration and whose practice is limited
365 to the scope of practice for which the individual is certified;

366 (ii) whose clients remain fully clothed from the shoulders to the knees; and

367 (iii) whose clients do not receive gratuitous massage from the individual.

368 (2) An individual described in Subsection (1) may not represent oneself as a massage
369 therapist, massage apprentice, massage assistant, or massage assistant in-training.

370 (3) This chapter may not be construed to:

371 (a) authorize any individual licensed under this chapter to engage in any manner in the
372 practice of medicine as defined by the laws of this state[-];

373 [~~(3) This chapter may not be construed to:~~]

374 [~~(a)~~] (b) require insurance coverage or reimbursement for massage therapy or limited
375 massage therapy from third party payors; or

376 [~~(b)~~] (c) prevent an insurance carrier from offering coverage for massage therapy or
377 limited massage therapy.

378 Section 8. Section **58-47b-305** is amended to read:

379 **58-47b-305. State and local jurisdiction.**

380 (1) (a) The division is the only agency authorized to license individuals to ~~[practice]~~
381 engage in the practice of massage therapy or the practice of limited massage therapy within the
382 state or any of ~~[its]~~ the state's political subdivisions.

383 (b) This chapter does not prevent any political subdivision of the state from enacting:

384 (i) ordinances governing the operation of establishments offering massages; or

385 (ii) ordinances regulating the practice of massage therapy or the practice of limited
386 massage therapy, if the ordinances are not less stringent than this chapter.

387 (2) This chapter does not prohibit any political subdivision of the state from
388 prosecuting ~~[unlicensed individuals]~~:

389 (a) an unlicensed individual who is engaged in the practice of massage therapy [or
390 from prosecuting licensed individuals who are] or the practice of limited massage therapy; or

391 (b) a licensed individual who is engaged in unlawful conduct.

392 Section 9. Section **58-47b-306** is enacted to read:

393 **58-47b-306. Required signage and disclosures.**

394 (1) As used in this section, "massage establishment" means an establishment in which
395 an individual lawfully engages in the practice of massage therapy or the practice of limited
396 massage therapy.

397 (2) If a massage assistant or massage assistant in-training engages in the practice of
398 limited massage therapy at a massage establishment, the massage establishment shall
399 prominently display to the public a sign that indicates certain massage services offered at the
400 massage establishment are performed by a massage assistant or a massage assistant in-training.

401 (3) If an individual requests a massage service that is performed by a massage assistant
402 or a massage assistant in-training, the licensee performing or the massage therapy supervisor
403 supervising the massage service shall ensure that the individual is notified before scheduling or
404 agreeing to the massage service that the massage service is performed by a massage assistant or
405 massage assistant in-training.

406 Section 10. Section **58-47b-501** is amended to read:

407 **58-47b-501. Unlawful conduct.**

408 (1) "Unlawful conduct" includes:

409 ~~[(1)]~~ (a) practicing, engaging in, or attempting to practice or engage in the practice of
410 massage therapy without holding a current license as a massage therapist or a massage
411 apprentice under this chapter;

412 ~~[(2)]~~ (b) advertising or representing [~~himself as practicing~~] oneself as engaging in the
413 practice of massage therapy when not licensed to do so; [and]

414 (c) practicing, engaging in, or attempting to practice or engage in the practice of limited
415 massage therapy without holding a current license as a massage therapist, massage apprentice,
416 massage assistant, or massage assistant in-training under this chapter;

417 (d) advertising or representing oneself as engaging in the practice of limited massage
418 therapy when not licensed to do so; and

419 ~~[(3)]~~ (e) massaging, touching, or applying any instrument or device by a licensee in the
420 course of [~~practicing or~~] engaging in the practice of massage therapy or the practice of limited
421 massage therapy to the:

422 ~~[(a)]~~ (i) genitals;

423 ~~[(b)]~~ (ii) anus; or

424 ~~[(c)]~~ (iii) except as provided in Subsection (2), breasts of a female patron~~[, except when~~
425 ~~a female patron].~~

426 (2) (a) Subsection (1)(e)(iii) does not apply if a female patron:

427 (i) requests breast massage, as may be further defined by division rule~~[, and signs a~~
428 ~~written consent form, which must also include the signature of a parent or legal guardian if the~~
429 ~~patron is a minor, authorizing the procedure and outlining the reason for it before the procedure~~
430 ~~is performed.]~~ made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
431 Act; and

432 (ii) subject to Subsection (2)(b), signs a written consent form before each time the
433 procedure is performed.

434 **(b) If the female patron is a minor, the female patron's parent or legal guardian shall**
435 **sign the written consent form described in Subsection (2)(a).**

436 Section 11. Section **58-47b-502** is amended to read:

437 **58-47b-502. Unprofessional conduct.**

438 "Unprofessional conduct" includes the following and may be further defined by division
439 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

440 (1) maintaining, operating, or assisting in the establishment or operation of any place
441 of business for the purpose of performing the practice of massage therapy or the practice of
442 limited massage therapy without first obtaining a business license, if a license is required;

443 (2) failing to comply with any applicable ordinances relating to the regulation of
444 massage establishment;

445 (3) failing to comply with all applicable state and local health or sanitation codes;

446 (4) failing to properly supervise [~~an apprentice~~] a massage apprentice, massage
447 assistant, or massage assistant in-training;

448 (5) failing to maintain mechanical or electrical equipment in a safe operating condition;

449 (6) failing to adequately monitor patrons utilizing steam rooms, dry heat cabinets, or
450 water baths;

451 (7) prescribing or administering medicine or drugs;

452 (8) engaging in any act or practice in a professional capacity that is outside of the
453 practice of massage therapy or the practice of limited massage therapy; and

454 (9) engaging in any act or practice in a professional capacity for which the licensee is
455 not competent to perform through training or experience.